

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

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In the Matter of)

Implementation of Section 4(g)
of the Cable Television
Consumer Protection Act of 1992)

Home Shopping Station Issues)

MM Docket No. 93-8 MAR 29 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Commission

93-8

COMMENTS OF CHANNEL 63, INC.

CHANNEL 63, INC.

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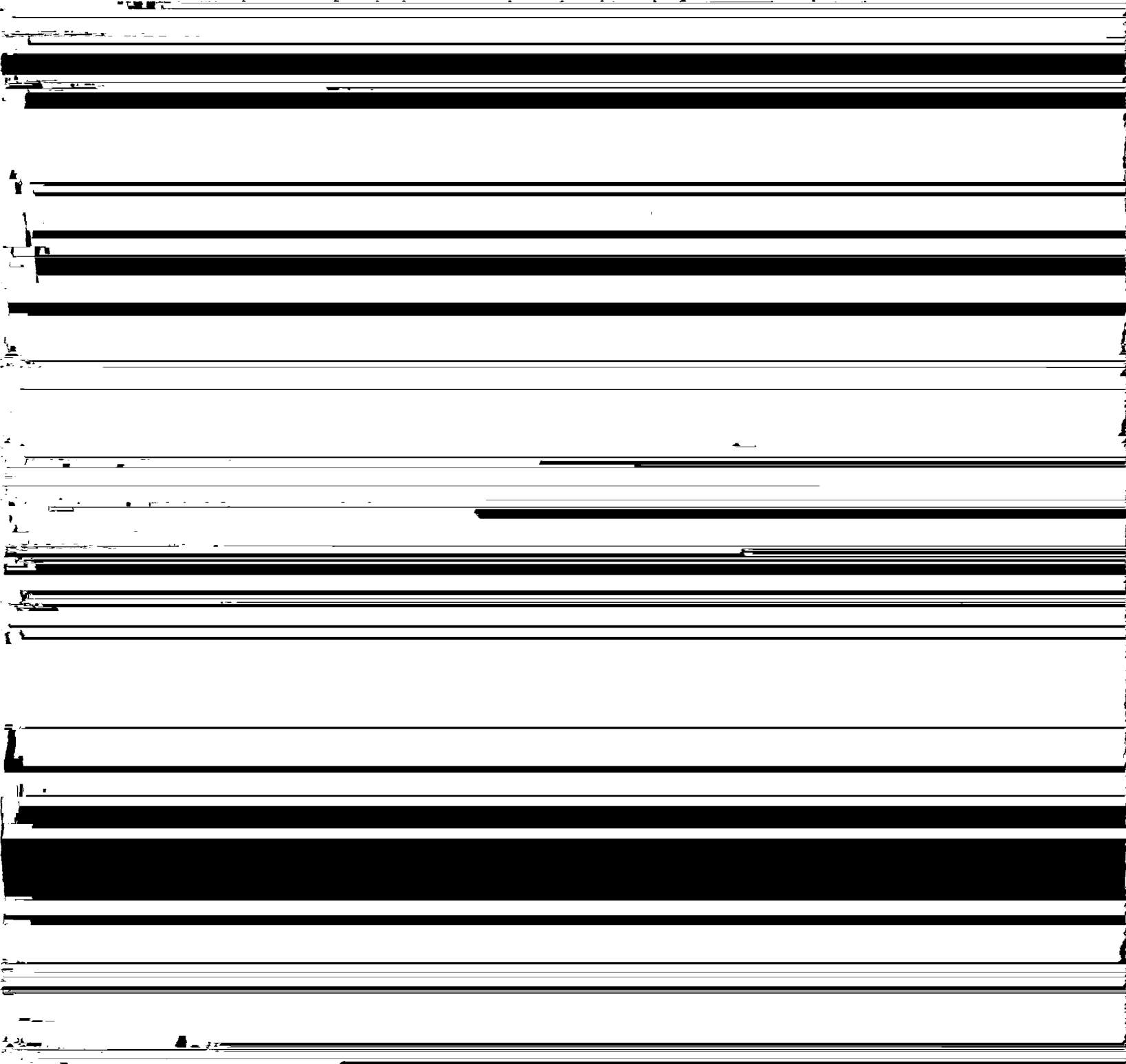
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SUMMARY

As the licensee of Home Shopping Network-affiliated television station WIIB(TV), Bloomington, Indiana, Channel 63, Inc. ("Channel 63") is vitally interested in this proceeding.



would result in a double standard for broadcasters that would destroy diversity in television broadcasting, contravene prior Commission policy, and violate the programming freedoms of broadcasters.

Channel 63 further demonstrates that under a properly defined public interest standard, WIIB(TV) has complied with community service obligations extraordinarily well. WIIB(TV) regularly airs an abundance of full-length and short-segment public affairs programming, public service announcements, community "bulletin board" announcements, and children's programming. The station is among the leaders among UHF independents in its market in airing such programming, and its performance has engendered a great amount of acclaim among its viewing public. The evidence provided in these Comments shows clearly that WIIB(TV), and home shopping stations in general, are deeply committed to serving the "public interest, convenience and necessity." The Commission should recognize this commitment and ensure that home shopping stations, and WIIB(TV) in particular, are deemed to be local broadcast stations deserving of cable carriage rights.

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To: The Commission

COMMENTS OF CHANNEL 63, INC.

Channel 63, Inc. ("Channel 63"), the licensee of television station WIIB(TV), Channel 63, Bloomington, Indiana, hereby submits its Comments on the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding, 8 FCC Rcd 660 (1993) ("NPRM").

Introduction

1. WIIB(TV) is a relatively new television station, having gone on the air in December 1988. The station operates in the highly competitive Indianapolis ADI, which is served by some 14 television stations. The relative infancy of WIIB(TV), its status as a high-channel UHF station, and the fact that WIIB(TV) is one of five UHF independent stations in the market have made competitiveness extremely difficult, and have forced WIIB(TV) to struggle for many years to obtain meaningful carriage on Bloomington's local cable system. See Exhibit A.

2. WIIB(TV)'s chances for survival, however, have been improved immensely by its affiliation with the Home Shopping Network ("HSN"), whose programming WIIB(TV) airs during the major part of its broadcast day. The steady source of programming offered by HSN has eased the burden of programming and operational costs on Channel 63, allowing the station to remain viable and on the air.

3. At the same time, however, WIIB(TV) is more than merely a "home shopping station." WIIB(TV) reserves some five and one-half minutes per hour (24 hours per day, seven days a week) for promotional announcements, public service announcements, a community bulletin board, and short-segment public affairs programs. WIIB(TV) also reserves a four-hour block of time every Sunday morning, during which the station presents full-length public affairs programming and one hour of children's educational programming. Indeed, as reflected in the newspaper articles contained in Exhibit A hereto, WIIB(TV) is known in its service area as Bloomington's "shopping and public affairs station."

4. As the licensee and operator of an HSN-affiliated broadcast station, Channel 63 is vitally concerned with the Commission's instant NPRM. The NPRM, issued pursuant to Section 4(g) of the Cable Television Consumer Protection and Competition Act of 1992 (the "Cable Act"), seeks to determine "whether home shopping stations are serving the public interest, convenience, and necessity." NPRM, para. 2. The Act requires that if the Commission finds that these stations do serve the public interest, it shall qualify them as local television stations for the purposes of cable carriage. If the Commission finds that one

or more such stations do not serve the public interest, the Act requires that the Commission provide such stations with reasonable time to provide different programming. Id.

5. Congress has directed the Commission to consider three specific factors in evaluating whether home shopping stations are serving the "public interest, convenience and necessity": (1) the viewing of home shopping stations by the public; (2) the level of competing demands for the spectrum allocated to such stations; and (3) the role of such stations in providing competition to nonbroadcast services offering similar programming. Id., para. 6. The NPRM seeks comment, however, on "other matters that may be helpful in resolving this issue." Furthermore, the NPRM invites commenters to "submit information regarding how home shopping broadcast stations have been meeting their public interest obligations." Id. While the NPRM expresses the Commission's "tentative view that a generalized decision of broad applicability is appropriate," the Commission has also recognized that under the Cable Act, individual judgments as to whether specific home shopping stations are

extent to which home shopping stations are serving their long-established obligation to present issue-responsive non-entertainment programming to their communities of license.

7. Secondly, Channel 63 demonstrates the unique commitment of its own station, WIIB(TV), to meeting its public interest obligations. WIIB(TV) is among the leaders in the Bloomington market at presenting issue-responsive non-entertainment programming, and its performance clearly warrants a finding that WIIB(TV) is serving the public interest and is entitled to cable carriage rights as a local station.

Discussion

I. The Primary Factor in Determining Whether Home Shopping Stations in General Are Serving the Public Interest Should Be the Extent to Which the Stations Are Meeting Their Obligation to Broadcast Issue-Responsive Non-Entertainment Programming

8. In the Cable Act, Congress has set forth three specific factors to be considered by the Commission in considering whether home shopping stations are serving the "public interest, convenience, and necessity." Unfortunately, these three factors impose a "public interest" standard on home shopping stations that is not applied to other broadcasters. In so doing, these factors effectively negate the Commission's decades-old policy against regulating stations based on program format, as well as Commission policy favoring diversity in programming, the prohibition against censorship of broadcasters contained in Section 326 of the Communications Act itself and, ultimately, the First Amendment.

9. The most disturbing of the Cable Act's three factors is "the viewing of home shopping stations by the public." As the NPRM aptly notes, never before has the Commission used a station's ratings as a factor to determine whether the licensee has met its public interest obligations. NPRM, para. 7. Such an approach inevitably would compel broadcasters to program a "least common denominator" schedule tailored for mass appeal, while ignoring innovative "cutting edge" programming as well as "narrowcast" programs tailored to a specific portion of the audience. This is because such programming would entail far too much risk of an audience loss which, under Congress' standard, conceivably could lead to revocation or non-renewal of the broadcaster's license. The result ultimately would be the destruction of diversity in television programming -- an objective that forms the basis for numerous Commission rules and policies, including the minority licensing preference and network regulations such as the financial interest and syndication rules.

10. Moreover, a "viewership"-based public interest standard ignores the nature of home shopping programming. Home shopping stations present a "narrowcast" format. Their programming is of particular value to those viewers who do not have the time, or are simply unable, to buy goods outside the home. Moreover, home shopping programming is not particularly conducive to viewing over an extended period of time, so home shopping stations would suffer from an inherent disadvantage in the surveys of industry ratings sources. A measure of the "public interest" that is based on viewership, therefore, would likely doom virtually all home shopping stations due to the nature of the programming they

present. Furthermore, a ratings approach to the public interest determination entirely ignores the competitive disadvantages of the new, independent UHF stations (like WIIB(TV)) that comprise much of the number of home shopping stations.

11. Given all these serious legal and policy concerns, the Commission should be seriously loath to give the "viewership" factor any appreciable weight in its public interest determination. To the extent the Commission is required to consider this factor, however, that consideration should be limited to one question: is the station operational? For at least nine years, the Commission has properly held the view that marketplace forces are the ultimate arbiter of program formats. If viewers are dissatisfied with the fare provided by home shopping stations, they will not watch, and ultimately the stations will change format or leave the air. See NPRM, para. 3. Conversely, as long as a home shopping station is operating, the Commission can assume that the station is garnering sufficient viewership to justify a conclusion that the station is serving the "public interest, convenience, and necessity."

12. The second factor enunciated by Congress -- "the level of competing demands for the spectrum allocated to [home shopping] stations" -- appears to evince a concern that home shopping stations somehow are "tying up" spectrum that other would-be users are clamoring to obtain. But as noted in the NPRM (para. 8), the renewal process provides for competing uses of spectrum being utilized by these stations. Television licenses are granted for five years only, and to the extent a competing broadcaster wishes to obtain the spectrum, it can file an

application mutually exclusive with a renewal application. Moreover, if a competing user desires spectrum being used by a home shopping station for non-broadcast use, that party is free to request a reallocation of those frequencies through the rulemaking process. Inasmuch as it appears that home shopping stations rarely if ever have had their renewals challenged and petitions to allocate their frequencies for other uses have not been filed, the Commission can comfortably conclude that there are no competing demands for spectrum being used by home shopping stations.

13. The third factor set forth in the Act is the role of home shopping broadcast stations in providing competition to nonbroadcast services offering similar programming. The role of home shopping broadcasters in this regard is fundamental. First, simply by providing an additional alternative to the numerous cable home shopping channels, home shopping broadcast stations serve the interests of competition and diversity. Even more importantly, however, home shopping broadcast stations have an obligation to present local non-entertainment programming responsive to their communities of license -- an obligation not shared by their non-broadcast counterparts. Thus, in every television market, a home shopping broadcast station is the only home shopping outlet that also provides local public affairs programming directed to its viewing area. Channel 63 submits that this fact alone satisfies the "competition" aspect as to all home shopping broadcast stations.

14. As noted above, the three factors set forth in the Act impose a "public interest" standard for home shopping stations

that is far different, and far more onerous, than that applied to all other television broadcasters. To the extent the Act requires the Commission to consider these factors, the Commission should analyze them in a manner that minimizes this disparity as much as possible. As set forth above, the Commission should find that: (1) the fact that a broadcast station is operating with a home shopping format is proof that the station is being viewed significantly enough for its operation to be found to serve the public interest; (2) the Commission's existing renewal application and rulemaking processes provide adequately for the competing demands of others for spectrum occupied by home shopping stations; and (3) all home shopping broadcast stations serve the public interest through their role in providing competition to nonbroadcast home shopping services.

15. Moreover, as acknowledged in the NPRM, the Cable Act does not limit the Commission to considering only Congress' three enumerated factors in its public interest determination. To ensure that home shopping stations are treated similarly to other television stations, and in accordance with its established policy, the primary factor in the Commission's determination should remain the extent to which home shopping stations have met their obligation to provide programming that responds to issues of concern to their communities of license. This standard has governed broadcasters for years, and only through primary emphasis on this obligation can the Commission avoid impermissibly discriminating against home shopping stations on the basis of their format -- an action that would run afoul of the Commission's established policy against regulating content,

its objective of promoting diversity and competition in television programming, the no-censorship provision of the Communications Act, and the First Amendment.

II. WIIB(TV) Has Complied Extraordinarily Well With Its Public Interest Obligations

16. The NPRM invites commenters to "submit information regarding how home shopping broadcast stations have been meeting their public interest obligations." NPRM, para. 6. The NPRM also acknowledges that individual public interest judgments as to specific stations may be warranted in certain circumstances. Id., para. 11. Accordingly, and as evidence of the commitment of home shopping broadcasters to operate in the public interest, Channel 63 takes this opportunity to demonstrate what it believes is WIIB(TV)'s exemplary performance in providing local issue-responsive programming to its viewers.

17. As noted above, WIIB(TV) reserves five and one half minutes in every hour of home shopping programming to present promotional announcements, public service announcements, a community bulletin board, and short-segment community affairs programs. WIIB(TV) also reserves a four-hour block of time on Sunday morning, during which full-length public affairs programming, along with one hour of children's educational programming, is aired. Specifically, WIIB(TV) presents the following programming:

- (a) Full-Length Public Affairs Programming: Each Sunday morning, WIIB(TV) airs a 30-minute public affairs program. One of three programs are aired: (i) Pro and Con, produced by Indiana University in Bloomington; (ii) Consider This, produced by Indiana

University/Purdue University of Indianapolis ("IUPUI");
or (iii) IUPUI Forum, also produced by IUPUI.^{1/}

- (b) Public Service Announcements: Each day WIIB(TV) devotes twelve segments, four and a half minutes each, to airing public service announcements. Each break contains an average of eight PSAs, addressing a variety of public interest issues. Many of these PSAs are produced locally or within the State of Indiana.
- (c) Community Bulletin Board: Each day WIIB(TV) airs twelve one-minute spots entitled "63 Information Please." These announcements contain notices of area community events, volunteer and scholarship opportunities, charitable and cultural events, and the services of health and social welfare agencies throughout WIIB(TV)'s market. Each of six different "63 Information Please" tapes airs twice a day, seven days a week.
- (d) Community Affairs Programming: Each week, WIIB(TV) produces six community affairs programs entitled "In Your Interest." These programs, four and one-half minutes in length, air twice a day, seven days a week. A list of community leaders, elected officials, and educators who have appeared on "In Your Interest" since 1991 is attached hereto as Exhibit B.
- (e) Religious Programming: Each Sunday morning, WIIB(TV) airs a one-hour religious program entitled "Road to Recovery" which is produced in Bloomington, as well as a one-hour "Jimmy Swaggert Ministries" program.
- (f) Children's Educational Programming: Each Sunday morning WIIB(TV) airs one hour of children's educational programming. This hour consists of the syndicated program "Vegetable Soup," an animated program geared to the education of preschool-age children, and a 30-minute locally produced show, "Kids

^{1/} During the second quarter of 1992, WIIB(TV) also aired Bring Them Home America, an extensive feature produced by HSN which focused on the 500,000 missing children listed with the Missing Children's Help Center. This program comprised, in all, some nine and one half hours of broadcast time.

In conjunction with its broadcast of Bring Them Home America, WIIB(TV) organized and sponsored a fingerprinting session for area children at a Bloomington church, where local police and sheriff's officials fingerprinted children for identification in the event of abduction. WIIB(TV) also aired four separate short-segment community affairs programs focusing on tips for child safety and advice on how to avoid being kidnapped.

Alive," which is directed to educating and informing older children in Bloomington about their community. WIIB(TV)'s full-length children's programming is supplemented by numerous public service announcements directed to children. WIIB(TV)'s quarterly children's programming summaries are attached hereto as Exhibit C.

18. The broad range of issues addressed by WIIB(TV) in its public service programming is set forth in the station's Issues/Programs Lists. Copies of those lists for the past two years are contained in Exhibit D hereto. The lists also contain summaries of the total amount of time WIIB(TV) devotes to public affairs programming per day, per month and per quarter. For example, WIIB(TV)'s public affairs programming summary for the fourth quarter of 1992 reflects that during the quarter, the station aired public affairs programming some 2 hours per day, 62 hours per month, and 187.5 hours over the quarter.

19. Moreover, attached as Exhibit E is an analysis of the amount of non-entertainment programming aired by WIIB(TV) and other UHF independent stations in the Indianapolis market during a sample week in the Fall 1992. As this analysis shows, WIIB(TV) is by far the leader among UHF independents in the market in airing local programming, with 5% of its broadcast time (6 a.m.-12 midnight) devoted to such programming. In addition, WIIB(TV) is second among independent UHF stations in airing news and public affairs programming, with a substantial 5.37% of its time devoted to such programming. WIIB(TV) also compares favorably in

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

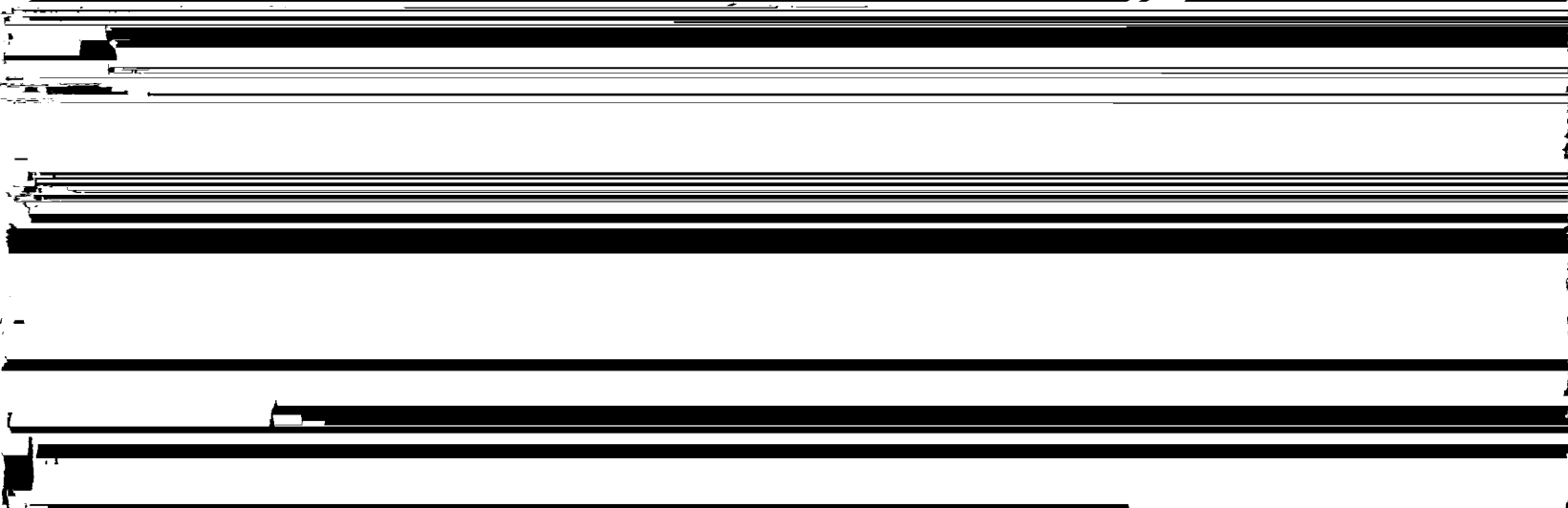
[REDACTED]

letters attest to WIIB(TV)'s extraordinary efforts to serve the public interest through community-responsive programming.

21. Channel 63 submits that the evidence contained herein demonstrates WIIB(TV)'s commitment to meeting its public service obligation to Bloomington, Indiana and surrounding areas. WIIB(TV)'s showing also is an illustration of the great extent to which home shopping stations are meeting this obligation. As demonstrated herein, WIIB(TV)'s community programming efforts, which have established the station's reputation as Bloomington's "shopping and public service station" (see Exhibit A), overwhelmingly prove that WIIB(TV) should be deemed a local broadcast station entitled to must-carry rights.

Conclusion

For years, a television station's efforts to serve its community of license through issue-responsive programming has been the fundamental criterion for determining whether the station is serving the "public interest, convenience, and necessity." The Commission's analysis as to home shopping stations pursuant to the Cable Act should be no different. These Comments demonstrate that home shopping stations in general, and



stations are entitled to cable carriage as "local commercial television stations."

Respectfully submitted,

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By:

A handwritten signature in dark ink, appearing to read "Martin R. Leader", written over a horizontal line.

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Its Attorneys

Dated: March 29, 1993

3070-009.K

EXHIBIT A

Changes in cable TV lineup concern callers

By Kurt Van der Dussen,
H-T Staff Writer APR 9 1991

Initial subscriber response is running against TCI of Indiana's proposal to drop two Terre Haute stations

and an Indianapolis religious station to make room for additions to its lineup.

TCI is trying to make room for the Encore pay movie channel and the Prime Sports Network. It might

also add The Comedy Channel and Video Hits 1, which features music videos, on a channel-sharing basis.

TCI manager Scott Cooley said Monday afternoon that the TCI office has received about 150 tele-

phone calls since Friday in response to the proposal, plus about 20 letters.

He said about 70 percent express-
see Cable, Back page

Cable TV station changes concern callers

Cable, from page A1

ed concern about losing Terre Haute NBC affiliate WTOG and Terre Haute CBS affiliate WTHI, while about 30 percent voiced fears that TCI was going to eliminate all religious programming.

TCI has proposed dropping Indianapolis-based WHMB, which carries religious programming, to permit Bloomington-licensed home shopping station WIIB and Bloomington-licensed religious station WCLJ much more air time on TCI than they have now.

Meanwhile, Cooley said Monday that a telephone survey of TCI customers about the proposed changes is under way. And he denied charges made by Bloomington City Councilwoman Iris Kiesling.

Kiesling said last week that TCI has "already made up their minds what they want to do."

Cooley insisted Monday that "if there's a big demand for the Terre Haute channels, we're not going to drop them." He also emphasized that TCI has no intention of dropping all religious programming.

Cooley said TCI of Indiana does have three mandates from its corporate headquarters:

- To add Encore as a pay station.
- To move WXIN, the Indianapolis Fox network affiliate, from TCI channel 14 to channel 11 under a contract between Fox and TCI.
- To relocate the channels in TCI's expanded basic subscriber package — A&E, AMC, ESPN, TNT and USA, plus Prime Sports if TCI

adds it — into the 20s so it can more easily "trap" them from the TV sets of people who only subscribe to TCI's basic service.

With regard to the last, Kiesling charged that would mean a rate increase for basic TCI customers who now can pick up TNT on channel 9 and ESPN on channel 12 even if they don't subscribe to them. They'd have to pay an extra 80 cents per month to get them if they were moved, she said.

That also perturbed Cooley, who said that of 19,218 TCI customers in Monroe County, only 120 do not already get the expanded basic package.

As for the proposal to give WHMB's air time to WIIB and WCLJ, WHMB presently has the daytime and evening hours on TCI

channel 27, while WCLJ is on from midnight to 5 a.m. on weekdays and WIIB is on from 5 to 6 a.m. weekdays.

WIIB, channel 63 over the airwaves, features home shopping programming as well as a variety of short public and community affairs programs, many targeted at Bloomington and some produced at Indiana University. But it gets little exposure on TCI.

WIIB manager Barbara Kerr said TCI has proposed giving WIIB and WCLJ each 12 hours a day, something she said she would welcome. Likewise, WCLJ manager Bob Higley said Monday that "certainly we would be happy" to get more air time on TCI in Bloomington.

WCLJ, channel 42 over the airwaves, is part of the Trinity Broad-

casting Network, which produces about 75 percent of its programming. Another 5 percent is produced by local churches, while 20 percent is syndicated religious programming it shares with WHMB and several other stations on TCI.

But WHMB is not giving up its TCI slot without a fight. Manager Paul Garber met with Cooley Monday to point out that its religious programming includes three programs produced by Bloomington churches.

He also noted that the station's extensive sports programming included telecasts of two Bloomington high school basketball games last winter, and will cover two more next winter. It also offers programs with interviews with IU athletes and coaches, including "The Jeannette Yeagley Show" featuring the soccer coach.

TCI: Survey supports new channel changes

TCI confirmed cable changes

Channels to be dropped		New Channels
Pay Channels		
CH 2	CNN	CNN
CH 3	BCAT/AP	BCAT/AP
CH 4	WTTV-IND	WTTV-IND
CH 5	WTIU-PBS	WTIU-PBS
CH 6	WRTV-ABC	WRTV-ABC
CH 7	HBO	HBO
CH 8	WISH-CBS	WISH-CBS
CH 9	TNT	Discovery
CH 10	Disney	Disney
CH 11	WTBS-IND	WXIN-FOX
CH 12	ESP	WTBS-IND
CH 13	WTHR-NBC	WTHR-NBC
CH 14	WXIN-FOX	Encore
CH 15	MTV	MTV
CH 16	CNBC	TNN/JCPenney
CH 17	Showtime	Showtime
CH 18	USA	Comedy Ch./VH-1
CH 19	Blank	QVC Shopping
CH 20	Weather Channel	Weather Channel
CH 21	Cinemax	Cinemax
CH 22	ABC	Lifetime
CH 23	CNN Headline News	ABC
CH 24	Discovery	ESPN
CH 25	Lifetime	ESPN
CH 26	WTHI-CBS	WTHI
CH 27	WHMB/WIIB/WCLJ	WTHI
CH 28	TNN	WTHI
CH 29	Meetings Channel	Meetings Channel
CH 30	WTWO-NBC	WIIB/WCLJ
CH 31	WGN-IND	WGN-IND
CH 32	QVC Shopping	CNN Headline News
CH 33	Nick/Nite	Nick/Nite
CH 34	FNN/BET	FNN/BET
CH 35	Family	Family
CH 36	CSPAN	CSPAN
CH 37	ABC	CNBC

By Kurt Van der Dussen
H-T Staff Writer

TCI of Indiana Inc. says it will proceed with planned channel changes June 3 after reporting finding solid support for them from subscribers surveyed by telephone earlier this month.

TCI Bloomington manager Scott Cooley said Tuesday that TCI will drop Terre Haute network affiliates WTWO (NBC) and WTHI (CBS) and Indianapolis religious station WHMB as proposed earlier this month.

The changes and the results of the survey justifying them will be presented to the Bloomington Telecommunications Council tonight at 7:30 in the council chambers of the Municipal Building.

Members of the council have spoken against the changes and council chairman Keith Klein angrily denounced the company Tuesday for proceeding so quickly with the change.

Klein said he had asked TCI officials to attend tonight's meeting and hear discussion of the changes before they became final.

"Now I think they have some explaining to do, face-to-face," Klein said. "The people of Monroe County that are TCI customers are being held hostage by this TCI attitude of pure arrogance."

"They don't have to deal with the customers. They have a paternalistic we-know-what's-best-for-you attitude."

"Clearly they're laying the groundwork for a three-tiered system that leads to a rate increase," he added, explaining that proposed channel changes could lead to three different levels of service with a different price for each. There are currently two levels of service.

He also questioned the accuracy of the survey.

Staff chart by Brian Rice

see Cable TV, page A7

TCI says survey

Cable TV, from page A1

"It was not not clear, not well constructed," he said. "I can't prove it, but it would seem to me that we should check the relationship of the survey service to TCI, since they're both headquartered in Denver."

Under the change proposal, TCI will drop the two channels and:

- Add the Encore movie pay channel at an extra charge of \$1 to \$4.95 per month, depending on how many other pay channels a customer receives.

- Add Prime Sports Network's Midwestern programming to its five-channel expanded basic package at no extra charge.

- Add The Comedy Channel and Video Hits 1 on a time-sharing basis, again at no added charge.

- Divide the time now taken by WHMB between two Bloomington-licensed stations — the WIIB shopping and public affairs station and the WCLJ religious station.

- Make a number of changes to its channel lineup, principally to move Indianapolis Fox Network affiliate WXIN and The Discovery Channel into the lower 13 channels and move the six expanded basic channels — AMC, the new Prime Sports, ESPN, USA, TNT and A&E — into the 23-28 channel slots.

That would mean that about 200 TCI customers who now do not subscribe to the expanded basic package but still can get TNT and ESPN on channels 9 and 12 respectively would have to subscribe to the expanded basic package at an extra 80 cents per month to continue to get those stations.

Cooley issued a news release on selected results from the survey Tuesday but did not release the survey itself — all the questions asked and the responses to them.

Cooley said the survey was conducted by telephone with 304 TCI customers on April 4-7, and that survey firm Talmey-Drake Research & Strategy of Boulder, Colo., declared the survey to have a margin of error of 5.6 percent.

Cooley said the response showed that a majority of TCI customers support the changes.

Cooley also said TCI received "200 to 250" telephone calls about the proposed changes. He said some were concerned about dropping the three stations, but that most were concerned about a possible rate increase. Once they heard there was no rate increase they were unconcerned, he said.

According to Cooley, the survey showed that:

- Dropping the Terre Haute stations would leave 59 percent of the respondents "not at all upset,"

supports new channel changes

while 22 percent said they would be "only mildly upset," leaving 19 percent who would be more upset.

- Dropping religious station WHMB would not upset 80 percent of the respondents.

Cooley said he has not talked to the Terre Haute stations or the Indianapolis station since receiving the survey. The Terre Haute stations

have pointed to Arbitron figures showing that their viewership exceeds a third of Monroe County TV viewers and slightly tops that for Indiana University-based public station WTIU.

Cooley said TCI's tentative plan is to show WIIB on channel 30 from 3 a.m. to 3 p.m., and WCLJ from 3 p.m. to 3 a.m. On channel 16, it will

show Video Hits 1 from 3 a.m. to 3 p.m. and The Comedy Channel from 3 p.m. to 3 a.m.

He said the survey also measured TCI subscribers' satisfaction with TCI. It found that 20 percent said they were "very satisfied," 45 percent said they are "pretty satisfied," and 21 percent said they were "slightly satisfied," leaving 14 per-

cent more or less dissatisfied or unsure.

In addition, 70 percent said TCI offers "just about the right number" of sports channels. And 45 percent said it offers "about the right number" of channels overall. Cooley did not report whether the other 55 percent thought there were too few or too many channels.

Region

Section C

Movie times / C2

Comics / C3,6

Classifieds / C4-10

Telecom council criticizes cable company

By Kurt Van der Dussen
H-T Staff Writer

TCI of Indiana Inc. was criticized harshly Wednesday night by the Bloomington Telecommunications Council for its decision to proceed with planned programming changes without first notifying the council.

It also got TCI officials to concede that while no rate increase is planned with the June changes, there very likely will be one in January — a common annual event with cable TV rates.

The five-member Telecommunications Council lowered the boom on TCI officials Scott Cooley and Lee Endicott when they appeared

before the council to present the findings of a random telephone survey of 304 TCI subscribers conducted earlier this month.

The main point of the survey was to assess customers' reactions to TCI's plans to drop Terre Haute network affiliates WTWO (NBC) and WTHI (CBS) and Indianapolis religious station WHMB, as proposed earlier this month.

In their place, TCI will:

- Add the Encore movie pay channel at an initial charge of \$1 per month, rising after June to up to \$4.95, depending on how many other pay channels one has. Encore is produced by Liberty Communications, a corporate spinoff of TCI.

- Add Prime Sports Network's

Midwestern programming to its five-channel expanded basic package at no extra charge.

- Add The Comedy Channel and Video Hits 1 on a time-sharing basis, again at no added charge.

- Divide the time now taken by WHMB between two Bloomington-licensed stations — the WIIB shopping and public affairs station and the WCLJ religious station.

(TCI officials did offer Wednesday night to see whether an agreement could be worked out among the three stations that would retain some programming time for WHMB.)

- Reshuffle its channel lineup to move Fox Network affiliate WXIN and The Discovery Channel into the

low 13 channels and move the six expanded basic channels — AMC, the new Prime Sports, ESPN, USA, TNT and A&E — into the 23-28 channel slots.

That means about 200 TCI customers who now do not subscribe to the expanded basic package but still can get TNT and ESPN will have to pay an extra 80 cents a month for the expanded basic package to keep getting those stations.

But at Wednesday night's meeting, Endicott maintained the purpose of the changes was not to make more money for TCI because it will pay more programming costs.

"That is not a credible answer," replied council member Susan Eastman, noting that nationally,

"tiering" of programming for rate-setting purposes almost always is a precursor to a rate increase.

Endicott replied that TCI was planning no rate increase.

"Until January," interjected board member Terri Simanton.

"Until January," Endicott agreed, noting later that January is when TCI annually assesses its increased expenses and adjusts subscriber rates accordingly.

Endicott and Cooley went over the survey with the council. It has a margin of error of 5.6 percent. Some of the highlights:

- Varying degrees of satisfaction with TCI service were expressed by see Cable TV, page C4

Commission criticizes cable company

Cable TV, from page C1

spondents said they'd be "very up- Endicott that they were not happy

Decision welcomed locally

By Kurt Van der Dussen
H-T Staff Writer

JUN 5 1991

TCI's decision to drop a controversial plan for canceling subscriptions to its new pay movie channel Encore was welcomed by TCI of Indiana Inc. Bloomington manager Scott Cooley and by Bloomington Telecommunications Council President Keith Klein.

"I think it's a good thing that we're giving people the option," said Cooley of TCI's new plan to let people check off on their July billing if they want to keep Encore and pay \$1 a month extra for the channel, which runs uncut movies from the 1960s, 1970s and 1980s.

Cooley said the original TCI strat-

TCI's decision welcomed locally

Reaction, from page A1

it, was an attempt to market Encore as economically and effectively as possible to hold the cost down to \$1 a month.

But the proposed cancellation method, known as a "negative option," ignited a firestorm of protest across Indiana and other states franchised by TCI, the nation's largest cable TV company.

"We've gotten a lot of complaints. People are frustrated," said Klein of calls by local TCI customers to the telecommunications council. In fact, he said, it was to be a major topic at Tuesday night's council meeting before TCI pre-empted the issue with its corporate announcement Tuesday afternoon.

Klein said it was unfortunate that it took lawsuits in several states to persuade TCI to cancel

argued that TCI should be required to block the channel from the TVs of people who don't want it.

TCI will do that, Cooley responded. "If they call us and wish not to receive Encore in their home, we'll trap it as soon as we possibly can," he said.

Meanwhile, Cooley reported that TCI has received numerous phone calls Monday and Tuesday about its new channel lineup, which went into effect Monday.

In addition to Encore, TCI customers now can view Prime Sports Network, plus Comedy Central and Video Hits on a channel-sharing basis. The two stations replaced Terre Haute network affiliates WTHI (CBC, formerly TCI channel 26) and WTWO (NBC, formerly TCI channel 30), which were dropped.

TCI also dropped the WHMB religious station in Indianapolis to

nels. It also put the six channels in its "expanded basic" cable package —the American Movie Channel, Prime Sports Network, ESPN, USA, TNT and Arts & Entertainment —on channels 23-28 respectively.

In addition to newspaper reports of the changes, TCI mailed its subscribers a card listing the changes last week. But Cooley said many people apparently threw it out, because his office has received many calls asking what was going on.

"We're trying to make the transition as painless as possible," he said of the channel-switching.

Klein agreed that local TCI officials have not been a problem to deal with, but he could not say the same about the parent corporation in Colorado. He charged that TCI subscribers have been bedeviled by a franchise with absentee owners who reflect a "Let

EXHIBIT B



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1991-1993

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St. Rep. Jerry Bales
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Bloomington City Councilwoman Pam Service
Bloomington City Councilman Howard House
Monroe County Prosecutor Robert Miller
Monroe County Sherrif Bill Brown
Circuit Court Judge E. Michael Hoff
Circuit Court Judge Elizabeth Mann
Circuit Court Judge Randy Bridges
Circuit Court Judge Kenneth Todd
Juvenile Court Magistrate Viola Taliaferro
District Court Judge Samuel Rosen
Brown County Court Judge Judy Stewart
Monroe County Commissioner President Tim Tilton
Monroe County Commissioner Joyce Poling

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Balint Vazonyi and Ron Smith (Bloomington Mayor)
Joseph Hogsett (U.S. Senate)
Mark Stanger and George Carpender (Monroe Co. Commissioners)

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